

Exhibit A

UNCLASSIFIED

Thomas Wilner, et al. v. NSA, et al., Civ. A. No. 07-3883 (S.D. N.Y.)**Exhibit A** to Redacted Second Hardy Decl.* = Summary Judgment Granted for FBI in EPIC and ACLU v. DOJ;† = Summary Judgment Granted for Referred Document in EPIC and ACLU v. DOJ.**INDEX OF FBI DOCUMENTS WITHHELD IN FULL OR IN PART**

DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 1*	01/23/06	Briefing Book	Withheld in Full (b)(1) (b)(2) (High) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C) (b)(7)(D) (b)(7)(E)	Responsive in Part See Redacted Second Declaration of David M. Hardy, dated May 5, 2008 ("Redacted Second Hardy Decl.")
FBI 2¹⁺	03/09/04	Power Point Slide Presentation	--	Referred to NSA; same as OLC 48
FBI 3	Various Dates	Handwritten notes	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 6²⁺	10/11/01	Congressional Letter	--	Referred to NSA.
FBI 7+	10/20/01	Internal Memorandum	--	Referred to DOJ/OLC

¹ For referred documents applicable exemptions are dealt with in the corresponding declarations filed by other agencies of the Federal Government, unless they contain documents with FBI equities, in which event, exemptions covering the FBI's equities are addressed in the Redacted Second Hardy Declaration.

² For the ease of the parties, to reduce possible confusion, and to maintain consistency with the preexisting document numbering conventions in other pending litigation, (e.g., EPIC and ACLU v. DOJ, Civ. A. No. 06-CV-00096 and 06-CV-00214 (D.D.C.)) this chart retains the numbering convention of the FBI's other charts. We have excluded from this chart any document that has been released in full or that we have determined to be non-responsive to plaintiffs' FOIA request.

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 8	12/16/05	Routing Slip with attached Memorandum	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 9	03/01/04 – 03/23/04	FBI Director's "Program Log"	Withheld in Part/Released in Part (b)(1) (b)(3) (b)(5) (DPP)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 10	Undated	Handwritten notes	Withheld in Part/Released in Part (b)(1) (b)(3) (b)(5) (DPP)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 14+	03/22/04	Memorandum with attachment	--	Referred to OIPR; same as OIPR 133 or 134;
FBI 15*	04/14/04	Internal e-mail with attached Memorandum	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP) (b)(7)(E)	Responsive in full Referred to FBI from DOJ Same as ODAG 46 and same as OIPR 114 <u>See Redacted Second Hardy Decl.</u>
FBI 16+	Undated	Congressional Questions with handwritten comments	--	Referred to NSA
FBI 17	Undated	Internal Notes	Withheld in Full (b)(1) (b)(3) (b)(5) (ACC)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 20*	03/14/04	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 23³	03/11/04	Not agency record	--	Referred to OLC/DOJ; same as OLC 56 (without attachments);
FBI 24+	12/19/05	Internal e-mail	FBI Equities Withheld in Full (b)(1) (b)(5) (DPP) (b)(6) (b)(7)(C)	Referred to NSA
FBI 25*	03/24/04	Draft Memorandum	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP) (b)(7)(E)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 26	Undated	Notes and background material	Withheld in Full (b)(1) (b)(5) (DPP)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 27*	Undated	Draft letter	Withheld in Full (b)(1) (b)(2) (High) (b)(5) (ACC) (b)(5) (DPP) (b)(7)(E)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 28*	03/16/04	Position document	Withheld in Full (b)(1) (b)(2) (High) (b)(5) (DPP) (b)(5) (ACC) (b)(7)(E)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.

³ Plaintiffs' objections disclaimed/withdrawn in EPIC and ACLU v. DOJ, Civ. A. No. 06-CV-00096 and 06-CV-00214 (D.D.C.).

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FBI 29*	03/14/04	Internal document	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(6) (b)(7)(A) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 30*	03/14/04	Internal document	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 31*	Undated	Internal document	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 32	03/18/04	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 34*	03/23/04	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in full <u>See Redacted Second Hardy Decl.</u>
FBI 36+	Undated	Flowchart	FBI Equities Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(6) (b)(7)(C) (b)(7)(E)	Referred to NSA

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 37+	Undated	Excerpt from Power Point Presentation	FBI Equities Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(7)(E)	Referred to NSA
FBI 38+	01/11/06	PowerPoint Presentation	--	Referred to NSA
FBI 40*	Undated	Executive Summary	Withheld in Full (b)(1) (b)(3) (b)(2) (High) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 41	03/09/04	Background documents	(b)(1) (b)(3) (b)(5) (DPP)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 42+	09/15/04	Memorandum	--	Referred to OLC; same as OLC 113
FBI 44*	03/20/04	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 45*	03/12/04	List of questions	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 46*	Undated	Position document	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(7)(E)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 48+	01/07/02	PowerPoint slides	--	Referred to NSA

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 49*	Undated	Draft document	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 50+	12/10/01	PowerPoint slides	--	Referred to NSA
FBI 52*	02/26/02	Internal report	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 56*	Undated	Internal notes	Withheld in Full (b)(1) (b)(3) (b)(5) (ACC) (b)(5) (DPP)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 57	Various Dates	Handwritten notes	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 61*	01/14/06	Internal e-mail with attached draft	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 62*	01/14/06	Internal e-mail with attached draft Talking Points	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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FBI 63*	01/16/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 64*	01/17/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 67*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 68*	01/19/06	Internal e-mail with attached draft Qs & As	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 70*	01/19/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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FBI 71*	01/31/06	Internal e-mail with attached draft Qs & As	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 73*	02/01/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 74*	Undated	Draft document	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 75*	Undated	Draft questions	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 76*	Undated	Draft document	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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FBI 77*	Undated	Draft document	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 78*	01/24/06	Internal e-mail	Withheld in Part/Released in Part (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 79*	01/27/06	Internal memorandum	Withheld in Full (b)(2) (High) (b)(5) (ACC) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 80*	01/09/02	Notes from briefing	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 82*	12/04/03	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 84*	12/04/03	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.

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FBI 92*	Not Dated	Draft memorandum	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP) (b)(7)(E)	Responsive in full (Same as ODAG 47/referred from DOJ to FBI) <u>See Redacted Second Hardy Decl.</u>
FBI 93*	Not Dated	Draft memorandum	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 103+	08/25/05	Internal e-mail with attached NSA Report	--	Referred to NSA
FBI 104+	09/06/05	Internal e-mail	--	Referred to NSA
FBI 105+	09/09/05	Internal e-mail	--	Referred to NSA
FBI 106+	09/21/05	Internal e-mail	--	Referred to NSA
FBI 107+	09/21/05	Internal e-mail	--	Referred to NSA and CIA
FBI 108+	09/22/05	Internal e-mail	--	Referred to NSA and CIA
FBI 109+	12/30/05	Internal e-mail with attached NSA Report	--	Referred to NSA
FBI 112+	09/28/05	Internal e-mail	--	Referred to NSA and CIA
FBI 114	12/12/05	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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FBI 115	01/04/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 116*	01/12/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 117*	01/12/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 118*	01/16/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 119*	01/16/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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FBI 120*	01/17/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 123*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 124*	1/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 127*	01/23/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 128	1/25/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 130*	01/01/03- 08/22/03	Internal memorandum	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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FBI 132+	09/09/05	Internal e-mail	--	Referred to NSA
FBI 133*	10/17/05	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u> ¶¶
FBI 134	10/18/05	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 137	01/04/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 139	01/09/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 140*	01/09/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 141	01/10/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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FBI 142*	01/10/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 143	01/10/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 144	01/10/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 146*	01/12/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 147*	01/12/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 148	01/12/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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Thomas Wilner, et al. v. NSA, et al., Civ. A. No. 07-3883 (S.D. N.Y.)**Exhibit A** to Redacted Second Hardy Decl.* = Summary Judgment Granted for FBI in EPIC and ACLU v. DOJ;+ = Summary Judgment Granted for Referred Document in EPIC and ACLU v. DOJ.

DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 149	01/14/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 150*	01/16/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 151*	01/16/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 152*	01/17/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 158*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 159*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 163*	01/19/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 164*	01/19/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 165*	01/19/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 166	01/23/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 167*	01/23/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 170*	01/30/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 171	02/13/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 172*	11/22/04	Notes of meeting	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 175	Undated	Internal memorandum	Withheld in Full (b)(1) (b)(3)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 177*	Undated	Position Descriptions	Withheld in Full (b)(1) (b)(3) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 178	Undated	Internal memorandum	Withheld in Full (b)(1) (b)(3) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 179*	05/27/04	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 182*	01/17/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 183*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 184*	01/19/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 186*	01/23/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 187*	01/23/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 188*	01/24/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 190*	Undated	Memorandum	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 191*	Undated	Draft memorandum	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 192	Undated	Draft memorandum	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 193	Undated	Internal memorandum	Withheld in Full (b)(1) (b)(3) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 194	Undated	Internal memorandum	Withheld in Full (b)(1) (b)(2) (Low) (b)(2) (High) (b)(3) (b)(7)(E)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 211*	01/23/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 212*	01/24/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 220*	01/25/06	Internal e-mail with attached Executive Summary	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 221*	01/25/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 223*	01/24/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Full <u>See Redacted Second Hardy Decl.</u> ¶¶
FBI 224*	01/24/06	Internal e-mail with attached draft	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 234*	01/30/06	Internal e-mail with attached executive summary	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C) (b)(7)(D)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 236*	02/03/06	Internal e-mail with attached investigative case summaries	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C) (b)(7)(D)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 237*	02/14/06	Internal e-mail with attached summaries	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(A) (b)(7)(C) (b)(7)(D)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 239	12/16/05	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 241	01/04/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 242	01/06/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 243*	01/10/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 244*	01/10/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 245*	01/10/06	Internal e-mail	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 246*	01/14/06	Internal e-mail with attached draft	Withheld in Full (b)(1) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 248*	01/16/06	Internal e-mail with attached draft Talking Points	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 249*	01/16/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C) (b)(7)(D)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 250*	01/17/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 256*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 257*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 258*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 259*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 260*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 261*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 263*	01/18/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 266*	01/19/06	Internal e-mail with attached draft	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 269	01/20/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 270	01/20/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 271	01/27/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 273*	01/27/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 274	01/27/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 275	01/27/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 276*	01/29/06	Internal e-mail with attached draft	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 280*	01/31/06	Internal e-mail with attached Qs & As	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 281*	02/01/06	Internal e-mail	Withheld in Part/Released in Part (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 283*	02/01/06	Internal e-mail	Withheld in Part/Released in Part (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 284*	02/01/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 285*	02/01/06	Internal e-mail	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 292*	02/01/06	Internal e-mail with attached Draft proposed questions and answers	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 293*	02/01/06	Internal e-mail with attached Draft proposed questions and answers	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP) (b)(6) (b)(7)(C)	Responsive in Part <u>See</u> Redacted Second Hardy Decl.
FBI 296*	02/07/06	Internal e-mail	Withheld in Part/Released in Part (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 297*	02/07/06	Internal e-mail	Withheld in Part/Released in Part (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.
FBI 300*	02/01/06	Internal e-mail	Withheld in Part/Released in Part (b)(6) (b)(7)(C)	Responsive in Full <u>See</u> Redacted Second Hardy Decl.

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DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 301	11/19/02	Internal memorandum	(b)(1) (b)(3) (b)(5) (DPP)	Responsive in Part See Redacted Second Hardy Decl.
FBI 302	01/23/03	Internal memorandum	(b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part See Redacted Second Hardy Decl.
FBI 303	02/20/03	Internal memorandum	(b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part See Redacted Second Hardy Decl.
FBI 304*	01/06/03	Electronic Communication (Internal Memorandum)	Withheld in Full (b)(1) (b)(3) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Full See Redacted Second Hardy Decl.
FBI 305*	10/6/04	Electronic Communication (Internal Memorandum)	Withheld in Full (b)(1) (b)(2) (Low) (b)(3) (b)(6) (b)(7)(C)	Responsive in Full See Redacted Second Hardy Decl.
FBI 309*	Undated	Draft document	Withheld in Full (b)(5) (DPP)	Responsive in Full See Redacted Second Hardy Decl.
FBI 313	Undated	Power Point presentation	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part See Redacted Second Hardy Decl.
FBI 314	Undated	Power Point presentation	Withheld in Full (b)(1) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part See Redacted Second Hardy Decl.
FBI 316	Undated	Internal document	Withheld in Full (b)(1) (b)(3) (b)(6) (b)(7)(A) (b)(7)(C)	Responsive in Part See Redacted Second Hardy Decl.

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Thomas Wilner, et al. v. NSA, et al., Civ. A. No. 07-3883 (S.D. N.Y.)**Exhibit A** to Redacted Second Hardy Decl.* = Summary Judgment Granted for FBI in EPIC and ACLU v. DOJ;+ = Summary Judgment Granted for Referred Document in EPIC and ACLU v. DOJ.

DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 317+	Undated	Talking Points	--	Referred to DOJ OIPR; same as OIPR 65
FBI 318	01/23/06	Internal e-mail	(b)(1) (b)(2) (Low) (b)(3) (b)(5) (DPP) (b)(6) (b)(7)(C)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 319*	11/23/04	Draft document	(b)(1) (b)(3) (b)(5) (DPP)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>
FBI 322*	Undated	Draft document	Withheld in Full (b)(5) (DPP) (b)(5)(ACC)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 323*	05/23/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5) (ACC)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 324*	Undated	Draft document	Withheld in Full (b)(5) (DPP) (b)(5) (ACC)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 325*	07/19/05	Internal e-mail regarding draft document	Withheld in Full (b)(2) (Low) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 326*	08/18/05	Internal e-mail regarding draft document	Withheld in Full (b)(2) (Low) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 327*	08/31/05	Draft document	Withheld in Full (b)(2) (Low) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 328*	09/07/05	Internal e-mail regarding draft document	Withheld in Full (b)(2) (Low) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>

UNCLASSIFIED

Thomas Wilner, et al. v. NSA, et al., Civ. A. No. 07-3883 (S.D. N.Y.)**Exhibit A** to Redacted Second Hardy Decl.* = Summary Judgment Granted for FBI in EPIC and ACLU v. DOJ;† = Summary Judgment Granted for Referred Document in EPIC and ACLU v. DOJ.

DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 329*	09/21/05	Internal e-mail regarding draft document	Withheld in Full (b)(2) (Low) (b)(5) (DPP) (b)(5)(ACC) (b)(6) (b)(7)(C)	Responsive in Full See Redacted Second Hardy Decl.
FBI 330*	09/13/05	Internal e-mail regarding draft document	Withheld in Full (b)(2) (Low) (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full See Redacted Second Hardy Decl.
FBI 331*	05/25/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5) (ACC) (b)(6) (b)(7)(C)	Responsive in Full See Redacted Second Hardy Decl.
FBI 332*	05/31/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5) (ACC)	Responsive in Full See Redacted Second Hardy Decl.
FBI 333*	07/08/05	Internal e-mail regarding draft document	Withheld in Full (b)(2) (Low) (b)(5) (DPP) (b)(5)(ACC) (b)(6) (b)(7)(C)	Responsive in Full See Redacted Second Hardy Decl.
FBI 334*	09/07/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5) (ACC)	Responsive in Full See Redacted Second Hardy Decl.
FBI 335*	09/01/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5) (ACC)	Responsive in Full See Redacted Second Hardy Decl.
FBI 336*	09/21/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5)(ACC)	Responsive in Full See Redacted Second Hardy Decl.
FBI 337*	05/24/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5)(ACC)	Responsive in Full See Redacted Second Hardy Decl.
FBI 338*	05/31/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5)(ACC)	Responsive in Full See Redacted Second Hardy Decl.
FBI 339*	06/02/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5)(ACC)	Responsive in Full See Redacted Second Hardy Decl.

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Thomas Wilner, et al. v. NSA, et al., Civ. A. No. 07-3883 (S.D. N.Y.)**Exhibit A** to Redacted Second Hardy Decl.* = Summary Judgment Granted for FBI in EPIC and ACLU v. DOJ;+ = Summary Judgment Granted for Referred Document in EPIC and ACLU v. DOJ.

DOC. NO.	DATE	DOCUMENT DESCRIPTION	APPLICABLE EXEMPTION(S)	JUSTIFICATION FOR EXEMPTION(S)/ COMMENTS
FBI 340*	8/30/05	Draft document	Withheld in Full (b)(5) (DPP) (b)(5)(ACC)	Responsive in Full <u>See Redacted Second Hardy Decl.</u>
FBI 2000*	Various	Serialized Documents Investigative File	Withheld in Full (b)(1) (b)(2) (Low) (b)(2) (High) (b)(3) (b)(5) (DPP) (b)(5) (ACC) (b)(5) (AWP) (b)(6) (b)(7)(A) (b)(7)(C) (b)(7)(D) (b)(7)(E)	Responsive in Part <u>See Redacted Second Hardy Decl.</u>

EXHIBIT B

William Goodman, Esq.
 Legal Director
 Center for Constitutional Rights
 666 Broadway, 7th Floor
 New York, NY 10012

February 8, 2008

Subject: Terrorist Surveillance Program
 FOIPA Nos. 1038271- 1038614

Dear Mr. Goodman:

The enclosed documents were reviewed under the Freedom of Information Act (FOIA) and Privacy Act (PA), 5 U.S.C. §§ 552 and 552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld in the entirety. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

Section 552

☒ (b)(1)
☒ (b)(2)
☒ (b)(3) _____
Section 102A(i)(1) of the
Intelligence Reform and Terrorism
Prevention Act of 2004
☐ (b)(4)
☒ (b)(5)
☒ (b)(6)

Section 552a

☒ (b)(7)(A) ☐ (d)(5)
☐ (b)(7)(B) ☐ (j)(2)
☒ (b)(7)(C) ☐ (k)(1)
☒ (b)(7)(D) ☐ (k)(2)
☒ (b)(7)(E) ☐ (k)(3)
☐ (b)(7)(F) ☐ (k)(4)
☐ (b)(8) ☐ (k)(5)
☐ (b)(9) ☐ (k)(6)
☐ (k)(7)

2,557 pages were reviewed and **168 pages** are being released.

- ☒ Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:
 - ☐ referred to the OGA for review and direct response to you.
 - ☒ referred to OGAs for consultation. These consultations with the OGAs have been completed and all of the referred information is exempt from disclosure pursuant to one or more of the FOIA exemptions listed above. The pages which contain the referred information are included in the 2,557 reviewed pages listed above.

☒ You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information and Privacy, U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, within sixty (60) days from the date of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

☐ The enclosed material is from the main Investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown, when

ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

☐ See additional information which follows.

Sincerely yours,



David M. Hardy
Section Chief
Record/Information
Dissemination Section
Records Management Division

Enclosure(s) - (2)

This is in response to your Freedom of Information Act (FOIA) request dated January 18, 2006, for specific records dated from September 11, 2001, to the date of your FOIA request "concerning the development, approval, and implementation of the Executive's warrantless electronic surveillance and/or warrantless physical search program within the United States" as administered by the National Security Agency ("NSA"), which surveillance program is known as the Terrorist Surveillance Program ("TSP").

As stated in our previous letter to you dated April 6, 2006, the President of the United States "authorized the National Security Agency [(NSA)], consistent with U.S. law and the Constitution, to intercept the international communications of people with known links to al Qaeda and related terrorist organizations." The President has also noted that "[t]his is a highly classified program that is crucial to our national security." As a result, because of the highly classified nature of the TSP, we can neither confirm nor deny the existence of any records related to any particular individual under this program. The fact of the existence or non-existence of responsive records is a currently and properly classified matter in accordance with Executive Order 12958, as amended. Thus, the confirmation of the existence or non-existence of any such TSP records concerning any individual is herewith denied pursuant to FOIA Exemption (b)(1).

In addition, although the existence of the TSP has been publicly acknowledged and certain general facts about the TSP have been publicly disclosed by officials of the Department of Justice ("DOJ") and the FBI, the President and other Executive Branch officials have stated that sensitive information about the nature, scope, operation, and effectiveness of the TSP remains classified and cannot be disclosed without causing exceptionally grave harm to the national security of the United States. Therefore, nearly all of the specific records responsive to your FOIA request are herewith being denied pursuant to FOIA Exemption (b)(1), 5 U.S.C. § 552(b)(1). FOIA Exemption 1 pertains to national security information which is properly classified pursuant to Executive Order 12958, as amended. The information protected by this FOIA exemption is currently and properly classified because its disclosure could reasonably be expected to cause exceptionally grave damage to the national security of the United States.

Additionally, many of the documents responsive to your request which involve the TSP relate to several ongoing FBI counterterrorism investigations, and are being denied in full pursuant to FOIA Exemption (b)(7)(A), 5 U.S.C. § 552(b)(7)(A). The only releasable information in the specific records responsive to your FOIA request is information which has been disseminated to the public through press releases to the media, official public speeches, public testimony before Congress, or prior FOIA releases. The records which contain such publicly available information are enclosed with this letter. FOIA Exemption (b)(7)(A) pertains to information compiled for law enforcement purposes which, if disclosed, could reasonably be expected to interfere with enforcement proceedings.

Please be advised that the specific records responsive to your FOIA request also contain certain information which is hereby denied pursuant to FOIA Exemptions (b)(2), (b)(3), (b)(5), (b)(6), (b)(7)(C), (b)(7)(D), and (b)(7)(E), 5 U.S.C. §§ (b)(2), (b)(3), (b)(5), (b)(6), (b)(7)(C), (b)(7)(D), and (b)(7)(E). Specifically, FOIA Exemption (b)(2) exempts from disclosure information related solely to the internal personnel rules and practices of an agency. This FOIA exemption encompasses two distinct categories of information, both of which are present here, which are internal in nature: trivial administrative matters of no genuine public interest ("Low 2") and information which, if disclosed, would risk circumvention of investigative techniques ("High 2"). FOIA Exemption (b)(3) pertains to information which is specifically exempted from disclosure by statute, which in this instance is the National Security Act of 1947, as amended by Section 102A(i)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 [50, U.S.C., § 403-1(i)(1)]. FOIA Exemption (b)(5) pertains to certain inter- and intra-agency communications protected by the deliberative process and attorney-client privileges. FOIA Exemption (b)(6) pertains to information which, if disclosed, would constitute a clearly unwarranted invasion of the personal privacy of third-party individuals. FOIA Exemption (b)(7)(C) pertains to records or information compiled for law enforcement purposes which, if disclosed, could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third party individuals. FOIA Exemption (b)(7)(D) pertains to records or information compiled for law enforcement purposes which, if disclosed, could reasonably be expected to reveal the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and information furnished by a confidential source. Finally, Exemption 7(E) protects records compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure would reasonably be expected to risk circumvention of the law.

In addition, please note that two FBI Headquarters ("FBIHQ") investigative main files concerning a) the FBI's investigative participation in the TSP and b) the FBI investigation of the potential unauthorized disclosure of classified information concerning the TSP to the public may contain records that are responsive to your FOIA request. Inasmuch as these two FBI investigative main files pertain to ongoing FBI investigations, any such responsive records, if they exist, are herewith being denied in their entirety pursuant to FOIA Exemption (b)(7)(A). These two main files were not examined to determine if there are any records responsive to your FOIA request and thus, any such responsive records, if they exist, were not included in the 2,557 pages reviewed for your FOIA request.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b) (1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (b) (2) related solely to the internal personnel rules and practices of an agency;
- (b) (3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b) (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b) (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b) (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b) (7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b) (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b) (9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d) (5) information compiled in reasonable anticipation of a civil action proceeding;
- (j) (2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k) (1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k) (2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k) (3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k) (4) required by statute to be maintained and used solely as statistical records;
- (k) (5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k) (6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k) (7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence